

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mac Muir	Team: Squad #6	CCRB Case #: 202003731	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Fri, 05/29/2020 10:30 PM	Location of Incident: [REDACTED]		Precinct: 79	18 Mo. SOL 11/29/2021	EO SOL 5/4/2022
Date/Time CV Reported Sat, 05/30/2020 3:16 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 05/30/2020 3:16 PM		

Complainant/Victim	Type	Home Address
1. [REDACTED]	[REDACTED]	[REDACTED]
2. [REDACTED]	[REDACTED]	[REDACTED]
3. [REDACTED]	[REDACTED]	[REDACTED]
4. [REDACTED]	[REDACTED]	[REDACTED]
5. [REDACTED]	[REDACTED]	[REDACTED]
6. [REDACTED]	[REDACTED]	[REDACTED]
7. [REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
1. [REDACTED]	[REDACTED]
2. [REDACTED]	[REDACTED]

Subject [REDACTED]s	Shield	TaxID	Command
1. [REDACTED]			
2. SGT Matthew Peters	00328	934461	115 PCT
3. [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Witness [REDACTED]s	Shield No	Tax No	Cmd Name
1. [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2. [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

(s)	Allegation	Investigator Recommendation
A . [REDACTED]	[REDACTED]	A . [REDACTED]
B . [REDACTED]	[REDACTED]	B . [REDACTED]
C . SGT Matthew Peters	[REDACTED]	C . Unsubstantiated
D . SGT Matthew Peters	Force: At the intersection of Classon Avenue and [REDACTED] Avenue in Brooklyn, Sergeant Matthew Peters used physical force against an [REDACTED]	D . Substantiated
E . SGT Matthew Peters	[REDACTED]	E . [REDACTED]

	Allegation	Investigator Recommendation
s)		
F . SGT Matthew Peters	Force: At the intersection of Classon Avenue and [REDACTED] Avenue in Brooklyn, Sergeant Matthew Peters used physical force against Tyler Berg.	F . Substantiated
G . SGT Matthew Peters	[REDACTED]	G . [REDACTED]
H . [REDACTED]	Force: At the intersection of Classon Avenue and [REDACTED] Avenue in Brooklyn, Police [REDACTED] used physical force against an [REDACTED]	H . Substantiated
I . SGT Matthew Peters	Force: At the intersection of Classon Avenue and [REDACTED] Avenue in Brooklyn, Sergeant Matthew Peters used physical force against an [REDACTED]	I . Substantiated
J . [REDACTED]	[REDACTED]	J . [REDACTED]

Case Summary

On May 30, 2020, [REDACTED] submitted this complaint via the CCRB website as a non-reporting witness who saw the incident on Twitter. This case was sensitive because the Twitter video had 4.5 million views, and it received national media coverage (BR 14).

On May 29, 2020, at approximately 10:30 p.m., Sgt. Matthew Peters of the 115th Precinct was assigned to a protest detail at the 88th Precinct stationhouse in Brooklyn. He and a large group of [REDACTED] from a wide array of precincts, walked south on Classon Avenue to disperse the protest. At the intersection of Classon Avenue and [REDACTED] Avenue, [REDACTED] pushed [REDACTED] civilians south on Classon Avenue and yelled, "Get the fuck back" (**Allegation A: Force: [REDACTED] Unidentified**) (**Allegation B: Discourtesy: [REDACTED] Unidentified**). At the intersection of Classon Avenue and [REDACTED] Place, Sgt. Peters pushed an [REDACTED] female [REDACTED] two times (**Allegation C: Force: Unsubstantiated**).

At the intersection of Classon Avenue and [REDACTED] Avenue, Sgt. Peters chased an [REDACTED] male [REDACTED] grabbed him, and pushed him toward the sidewalk (**Allegation D: Force: Substantiated**). Sgt. Peters pursued the male [REDACTED] onto the sidewalk, said, "Get the fuck out of here," (**Allegation E: Discourtesy: Exonerated**) and shoved him at a wrought iron fence (**within Allegation D**). The male [REDACTED] fell into the fence. Sgt. Peters shoved the male [REDACTED] against the fence again, then pushed him south on Classon Avenue (**within Allegation D**). Another civilian, T[REDACTED] B[REDACTED], stood next to them on the sidewalk. Sgt. Peters grabbed Mr. B[REDACTED] by the wrist and shirt and shoved him southbound on Classon Avenue (**Allegation F: Force: Substantiated**). Sgt. Peters told Mr. B[REDACTED] to, "Get the fuck out of here" (**Allegation G: Discourtesy: Exonerated**). Police [REDACTED] of the 115th Precinct, who stood next to Sgt. Peters, pushed an [REDACTED] male [REDACTED] (**Allegation H: Force: Substantiated**). Sgt. Peters walked north on Classon Avenue, grabbed an [REDACTED] female [REDACTED] by the shoulders, and shoved her forward (**Allegation I: Force: Substantiated**).

PO [REDACTED] did not make a memo book entry regarding this incident (**Allegation J: Other Misconduct**). The investigation obtained BWC footage (BR 01) and personal video footage (BR 02-03) of this incident. An attorney was consulted for this case.

Findings and Recommendations

Allegation A – Force: At the intersection of Classon Avenue and [REDACTED] Avenue in Brooklyn, [REDACTED] used physical force against [REDACTED]

Allegation B – Discourtesy: At the intersection of Classon Avenue and [REDACTED] Avenue in Brooklyn, [REDACTED] spoke discourteously to [REDACTED]

On May 29, 2020, at approximately 10:30 p.m., T[REDACTED] B[REDACTED] and a friend walked from his apartment to the intersection of Classon Avenue and [REDACTED] Place and observed civilians marching south on Classon Avenue. Mr. B[REDACTED] and his friend walked south on Classon Avenue to the intersection of Classon Avenue and [REDACTED] Avenue. [REDACTED] formed a line, shoulder-to-shoulder, and marched down the street. They pushed any civilians who did not move further south on Classon Avenue and told them to, "Get the fuck back." Mr. B[REDACTED] was unable to describe any of these [REDACTED] beyond stating that some wore white shirts. He did not know any of the civilians who were pushed.

[REDACTED] a reporter, observed [REDACTED] shove, grab, and push protesters on Classon Avenue. He could not describe any of the protesters. [REDACTED] used profanity during the protest. However, Mr. [REDACTED] could not describe any specific phrase an [REDACTED] used or recall a specific moment in which they spoke.

Sgt. Peters testified that [REDACTED] pushed protesters down Classon Avenue. However, he was unable to attribute specific pushes to specific [REDACTED]. The only protesters he remembered pushing were those depicted in the videos relevant to Allegations C – G. He did not know if other [REDACTED] used the word “fuck” while instructing protesters to move back.

Without additional evidence, or specific descriptions of the [REDACTED] who pushed protesters and allegedly said, “Get the fuck back,” the investigation was unable to identify such [REDACTED]. It is therefore recommended that **Allegations A and B** be closed with the disposition [REDACTED]
Unidentified.

**Allegation C – Force: At the intersection of Classon Avenue and [REDACTED] Place in Brooklyn,
Sergeant Matthew Peters used physical force against an [REDACTED]**

Video footage provided by [REDACTED] (BR 02), beginning at 0:00 seconds, showed Sgt. Peters stand in front of a white female, approximately 5'0" tall, with a slim build, at the intersection of Classon Avenue and [REDACTED] Place. Sgt. Peters grabbed the female [REDACTED] forearms and pushed her two times as he said, “Back up.” When Sgt. Peters pushed her the first time, she was at the edge of the crosswalk behind a parked vehicle. When he pushed her the second time, she was in the crosswalk at the edge of the sidewalk. She yelled, “Don’t touch me.” An [REDACTED] off-screen yelled that the woman did not do anything. An [REDACTED] male [REDACTED] pointed in Sgt. Peters’ face and said, “Fuck you.”

Sgt. Peters testified that when he first arrived at the 88th Precinct, he was instructed to prevent approximately one thousand protesters from entering the stationhouse. The protesters threatened to burn down the precinct and light several police vehicles on fire with Molotov cocktails. A supervisor instructed Sgt. Peters and other [REDACTED] to walk south on Classon Avenue to drive the protesters away from the stationhouse. Sgt. Peters walked south on Classon Avenue. [REDACTED] and protesters formed separate lines across Classon Avenue. The protesters pushed against the [REDACTED] who pushed the protesters back. Sgt. Peters was presented with Mr. [REDACTED] footage (BR 02) and did not have any recollection of this portion of the incident. He stated that this video depicted the portion of the incident in which he and other [REDACTED] pushed protesters back. He did not remember anything about the female [REDACTED] he pushed back. He did not remember seeing her at any point during the protest. He did not remember interacting with her after the video ended.

Mr. [REDACTED] stated that he had no independent recollection of this portion of the incident.

The investigation did not identify the female [REDACTED] Sgt. Peters pushed.

According to Patrol Guide Procedure 221-01 (BR 04), in determining whether the use of force is reasonable, members of service should consider the following; the nature and severity of the circumstances; the actions taken by the subject; the duration of the action; the immediacy of the perceived threat or harm to the subject, members of service, and/or bystanders; whether the subject is actively resisting arrest; whether the subject is attempting to evade arrest by flight; the number of subjects in comparison to the number of MOS; the size, age, and condition of the subject in comparison to MOS; the subject’s violent history, if known; the presence of hostile crowd or agitators; and whether the subject is apparently under the influence of a stimulant or narcotic which would affect their pain tolerance or increase the likelihood of violence.

Based on the video, Sgt. Peters’ pushed this [REDACTED] two times. He described the nature and severity of the circumstances as a large protest/riot in which several police vehicles were burned. He did not remember actions taken by the female [REDACTED] he pushed, the duration of such

actions, perceived threat of harm related to this female [REDACTED] Sgt. Peters did not try to arrest her, and she did not appear to resist arrest. The female [REDACTED] appeared to be approximately one foot shorter than Sgt. Peters, and significantly smaller than he was. The video footage showed that there were hundreds of civilians and [REDACTED] present. As stated above, the video began when Sgt. Peters first pushed the [REDACTED] female [REDACTED]. Neither Sgt. Peters nor Mr. [REDACTED] had any recollection of this portion of the incident. Consequently, the investigation could not determine whether the female [REDACTED] took any actions that may have prompted Sgt. Peters to push her and could not determine whether Sgt. Peters' push was permissible.

As the investigation could not determine the circumstances prior to when Sgt. Peters used force, it is recommended that **Allegation C** be **Unsubstantiated**.

Allegation D – Force: At the intersection of Classon Avenue and [REDACTED] Avenue in Brooklyn, Sergeant Matthew Peters used physical force against an [REDACTED]
Allegation E – Discourtesy: At the intersection of Classon Avenue and [REDACTED] Avenue in Brooklyn, Sergeant Matthew Peters spoke discourteously to an [REDACTED]

Video footage provided by [REDACTED] (BR 03), beginning at 0:05 seconds, showed Sgt. Peters run through a crowd of [REDACTED] pursuing a white male [REDACTED] who ran south on Classon Avenue. As the [REDACTED] man ran across the street, he raised his hands and passed by an [REDACTED] white male [REDACTED] in a white uniform, and an [REDACTED] [REDACTED] who appeared to take a photograph. Sgt. Peters ran around the uniformed [REDACTED] and the photographer, grabbed the [REDACTED] male [REDACTED] by the upper back with both hands, and shoved him south on Classon Avenue toward the sidewalk. The [REDACTED] male [REDACTED] stumbled forward onto the sidewalk, approximately ten to fifteen feet, and turned back toward Sgt. Peters. Sgt. Peters followed the [REDACTED] male [REDACTED] and said, "Get the fuck out of here." Sgt. Peters pushed the [REDACTED] male [REDACTED] left bicep with two hands, causing him to stumble backwards and fall into a wrought-iron fence. Sgt. Peters approached the [REDACTED] male [REDACTED] a third time, grabbed his left shoulder, pushed him against the wrought-iron fence, lifted the male [REDACTED] up, and appeared to push him southbound on Classon Avenue. Sgt. Peters added, "Get the fuck out of here."

PO [REDACTED] BWC footage (BR 01), beginning at 0:40, showed Sgt. Peters approach the male [REDACTED] push him off the street, push him into the wrought-iron fence (BR 05-07), and push him south on Classon Avenue.

T [REDACTED] B [REDACTED] testified that at Classon Avenue and [REDACTED] Avenue, Sgt. Peters ran toward a male [REDACTED] who walked across the street toward the sidewalk. Sgt. Peters pushed the man in the shoulders with both hands, causing the male [REDACTED] to stumble. Sgt. Peters ran toward the male again and threw him into a wrought-iron fence. Sgt. Peters said, "Get the fuck back," and "Get the fuck out of the street." The male [REDACTED] sustained a bloody gash on his forehead from being thrown into the fence.

[REDACTED] [REDACTED] testified that he could not remember anything about this incident aside from what he recorded.

[REDACTED] a nurse, testified that moments after this incident took place, she observed the male [REDACTED] Sgt. Peters pushed, surrounded by a group of civilians. The male [REDACTED] touched his forehead and looked at blood on his hand. He had a gash on the right side of his forehead, below the hairline, that was 3/4 of an inch wide and 1/4 of an inch deep. It appeared as if the square top of a wrought iron fence was imprinted into his forehead and had removed the skin. The wound was

bleeding, but not profusely, and did not appear to have struck all the blood vessels in that part of his forehead. She did not witness Sgt. Peters push this male [REDACTED]

The investigation did not identify the male [REDACTED] Sgt. Peters pushed.

Sgt. Peters testified that as the line of [REDACTED] walked south on Classon Avenue, an [REDACTED] [REDACTED] punched him in the eye. He grabbed the [REDACTED] who punched him by the shirt. The [REDACTED] ran away. Sgt. Peters continued to walk southbound on Classon Avenue. Seconds after he was punched – he could not approximate how many – he ran into a crowd and pushed a different male [REDACTED] into a gate. During his CCRB interview, Sgt. Peters was presented with Mr. [REDACTED] video footage of this incident (BR 03). Sgt. Peters stated that the male [REDACTED] he pushed did not do anything in advance to draw his attention. He did not recall anything this [REDACTED] did before he (Sgt. Peters) pushed him. Although other protesters were generally pushing [REDACTED] he did not observe this male [REDACTED] push any [REDACTED]. The male [REDACTED] was committing disorderly conduct by refusing to disperse, as was every other protester who was present. Sgt. Peters pushed this [REDACTED] because the protesters were generally not listening to the [REDACTED] – who told them to leave – and he wanted the protester to leave. Sgt. Peters provided three reasons why he pushed the male [REDACTED]: 1. because he [Sgt. Peters] had been punched by an [REDACTED] civilian, 2. because he could not see out of one eye, and 3. to try to get himself to safety by dispersing the crowd. He did not purposefully push the male [REDACTED] into the gate. He only intended to push this [REDACTED] away from the [REDACTED]. Sgt. Peters acknowledged that he used the word “fuck” in the heat of the moment. He did this because he had just been punched, and because the protesters were not listening to the [REDACTED]. There was no other reason he used the word “fuck.”

According to Patrol Guide Procedure 221-01 (BR 04), force may be used when it is reasonable to ensure the safety of a member of service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances force must be reasonable. Unreasonable force will be deemed excessive. In determining whether the use of force is reasonable, members of service should consider the following; the nature and severity of the circumstances; the actions taken by the subject; the duration of the action; the immediacy of the perceived threat or harm to the subject, members of service, and/or bystanders; whether the subject is actively resisting arrest; whether the subject is attempting to evade arrest by flight; the number of subjects in comparison to the number of MOS; the size, age, and condition of the subject in comparison to MOS; the subject’s violent history, if known; the presence of hostile crowd or agitators; and whether the subject is apparently under the influence of a stimulant or narcotic which would affect their pain tolerance or increase the likelihood of violence.

The NYPD mission includes a promise to treat every citizen with courtesy, professionalism, and respect. Patrol Guide Procedure 200-02 (BR 08). In Disciplinary Case #796247/04 (BR 09) the NYPD held that “when a police [REDACTED] uses an otherwise impolite word during a stressful encounter where that [REDACTED] is attempting to maintain control of the situation, the [REDACTED] verbal slip does not rise to the level of actionable misconduct.”

Sgt. Peters described the nature and severity of the circumstances as a thousand-person protest/riot in which several police vehicles were burned. Sgt. Peters did not see the male [REDACTED] before he pushed him, and the male [REDACTED] did not do anything different from anyone else in the crowd to prompt Sgt. Peters to push him. The male [REDACTED] moved away from Sgt. Peters each time he pushed him. The male [REDACTED] did not resist arrest – as Sgt. Peters noted, he was attempting to disperse the crowd, not arrest anyone. The video showed that when Sgt. Peters pushed the male [REDACTED] the street was filled with civilians and [REDACTED]. Sgt. Peters did not know if the male [REDACTED] had any violent history or whether he was under the influence of a stimulant or narcotic.

The male [REDACTED] appeared to be slightly shorter and younger than Sgt. Peters. This incident took place in the vicinity of a hostile crowd.

The investigation determined that, given the size of the hostile crowd, this incident fell within the scope of a “stressful encounter,” and that as per Disciplinary Case #79627/04, Sgt. Peters’ use of the word “fuck” while instructing people to leave was permissible.

Sgt. Peters pushed the male [REDACTED] three times, twice into a wrought iron fence, which may have caused the injury to the male [REDACTED] head. He did this without any particularized reason to push this specific protester, aside from his general presence within a hostile crowd. Sgt. Peters stated that he did not intend to push the male [REDACTED] into the wrought-iron fence, but the video showed him repeatedly shove the male [REDACTED] in that direction, rather than south on Classon Avenue where the rest of the protesters walked. Given the totality of these circumstances, the investigation determined that Sgt. Peters’ use of force was excessive, unreasonable, and prohibited by the Patrol Guide.

Because Sgt. Peters’ force was impermissible it is recommended that **Allegation D** be **Substantiated**. Because his discourteous language was permissible under the circumstances, it is recommended that **Allegation E** be **Exonerated**.

Allegation F – Force: At the intersection of Classon Avenue and [REDACTED] Avenue in Brooklyn, Sergeant Matthew Peters used physical force against Tyler Berg.

Allegation G – Discourtesy: At the intersection of Classon Avenue and [REDACTED] Avenue in Brooklyn, Sergeant Matthew Peters spoke discourteously to Tyler Berg.

Allegation I – Force: At the intersection of Classon Avenue and [REDACTED] Avenue in Brooklyn, Sergeant Matthew Peters used physical force against an [REDACTED]

Video footage provided by [REDACTED] (BR 03), beginning at 0:16 seconds, showed Sgt. Peters turn away from the male [REDACTED] he pushed. T [REDACTED] B [REDACTED] stood on the sidewalk behind him and yelled, “Leave him alone.” Sgt. Peters grabbed Mr. B [REDACTED] by the shirt and arm and pushed him south on Classon Avenue. Sgt. Peters said, “Get the fuck out of here,” two times. Sgt. Peters walked behind two [REDACTED] grabbed an [REDACTED] female [REDACTED] and shoved her south on Classon Avenue. She stumbled forward and yelled, “What the fuck is wrong with you?”

PO [REDACTED] BWC footage (BR 01), beginning at 0:50, showed Sgt. Peters push Mr. Berg south on the sidewalk of Classon Avenue (BR 08).

Mr. B [REDACTED] testified that he stood on the sidewalk and told Sgt. Peters to leave the male [REDACTED] alone. He did not physically intervene between Sgt. Peters and the male [REDACTED]. Sgt. Peters told Sgt. Peters to, “Get the fuck back.” He grabbed Mr. B [REDACTED]’s right wrist and his shirt near his left shoulder and threw Mr. B [REDACTED] south on Classon Avenue. Sgt. Peters pushed an [REDACTED] female [REDACTED] on her shoulder/back, causing her to stumble. Sgt. Peters yelled, “Get the fuck back,” and “Get the fuck out of the way,” throughout the incident.

[REDACTED] testified that he could not remember anything about this incident aside from what he recorded.

Sgt. Peters testified that he pushed Mr. B [REDACTED] because he did not want anyone to stand behind him, because he had just been punched, and because he did not know where the person who punched him was. He did not recall any other reason he had to push Mr. B [REDACTED]. He pushed the female [REDACTED] because she stood behind him, because she was one of the protesters closest to him, and

because she was behind the line of [REDACTED] His goal was to get all the protesters in front of the [REDACTED]

PO [REDACTED] stated that he was unable to account for Sgt. Peters' actions because he had been so focused on his own actions.

According to Patrol Guide Procedure 221-01 (BR 04), force may be used when it is reasonable to ensure the safety of a member of service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances force must be reasonable. Unreasonable force will be deemed excessive. In determining whether the use of force is reasonable, members of service should consider the following; the nature and severity of the circumstances; the actions taken by the subject; the duration of the action; the immediacy of the perceived threat or harm to the subject, members of service, and/or bystanders; whether the subject is actively resisting arrest; whether the subject is attempting to evade arrest by flight; the number of subjects in comparison to the number of MOS; the size, age, and condition of the subject in comparison to MOS; the subject's violent history, if known; the presence of hostile crowd or agitators; and whether the subject is apparently under the influence of a stimulant or narcotic which would affect their pain tolerance or increase the likelihood of violence.

The NYPD mission includes a promise to treat every citizen with courtesy, professionalism, and respect. Patrol Guide Procedure 200-02 (BR 08). In Disciplinary Case #796247/04 (BR 09) the NYPD held that "when a police [REDACTED] uses an otherwise impolite word during a stressful encounter where that [REDACTED] is attempting to maintain control of the situation, the [REDACTED] verbal slip does not rise to the level of actionable misconduct."

Sgt. Peters described the nature and severity of the circumstances as a thousand-person protest/riot in which several police vehicles were burned. Mr. B [REDACTED] and the female [REDACTED] stood behind Sgt. Peters, and aside from this, neither of them did anything different from anyone else in the crowd to prompt Sgt. Peters to push them. Neither of them resisted arrest – as Sgt. Peters noted, he was attempting to disperse the crowd, not arrest anyone. The video showed that when Sgt. Peters pushed them, the street was predominately filled with [REDACTED]. Sgt. Peters did not know if either of them had any violent history or whether they were under the influence of a stimulant or narcotic. Mr. B [REDACTED] as 5'10" tall and the female [REDACTED] was several inches shorter than Sgt. Peters. This incident took place in the vicinity of a hostile crowd.

The investigation determined that, given the size of the hostile crowd, this incident fell within the scope of a "stressful encounter," and that as per Disciplinary Case #79627/04, Sgt. Peters' use of the word "fuck" while instructing people to leave was permissible.

Sgt. Peters grabbed and pushed Mr. B [REDACTED]. He then grabbed and pushed the female [REDACTED]. He did this without any particularized reason to push either of them, aside from their general presences in a hostile crowd and the fact that both stood behind him. Both Mr. B [REDACTED] and the female [REDACTED] stood on the sidewalk, not on the street. Given that that neither of them took specific actions to threaten anyone around them, the investigation determined that Sgt. Peters' use of force was not reasonable and prohibited by the Patrol Guide.

Because Sgt. Peters' force was impermissible it is recommended that **F and I be Substantiated**. Because his discourteous language was permissible under the circumstances, it is recommended that **Allegation G be Exonerated**.

Allegation H – Force: At the intersection of Classon Avenue and [REDACTED] Avenue in Brooklyn, Police [REDACTED] used physical force against an [REDACTED]

PO [REDACTED] BWC (BR 01), beginning at 0:50, showed that after Sgt. Peters pushed Mr. E [REDACTED] south on the sidewalk on Classon Avenue, PO [REDACTED] approached a male [REDACTED] who held a cell phone with a bright screen in his left hand. The male [REDACTED] right shoulder faced PO [REDACTED] PO [REDACTED] walked approximately 5 to 10 feet toward the male [REDACTED] and pushed him in the right shoulder, south on Classon Avenue.

Video footage provided by [REDACTED] (BR 03), beginning at 0:15, showed the male [REDACTED] walk from the stoop of the adjacent building onto the street. It did not capture PO [REDACTED] pushing the [REDACTED]. The audio did not capture PO [REDACTED] telling the [REDACTED] he pushed to step back.

Initially PO [REDACTED] stated that he did not remember the [REDACTED] depicted in his BWC footage. When he was presented with his BWC footage, he stated that he pushed the [REDACTED] because – 1) he was blading his body, 2) PO [REDACTED] could not see what was in his free hand, 3) PO [REDACTED] instructed him to step back, 4) based on the violent events of the evening, PO [REDACTED] needed what he described as a zone of safety – five to 20 feet of space between he and the male [REDACTED]. PO [REDACTED] suspected the male [REDACTED] of having a weapon because he did not know what was in the male [REDACTED] hand. PO [REDACTED] could not recall any specific instructions he issued to the male [REDACTED]. He did not remember seeing this male [REDACTED] before what was depicted in the BWC footage.

According to Patrol Guide Procedure 221-01 (BR 04), force may be used when it is reasonable to ensure the safety of a member of service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In determining whether the use of force is reasonable, members of service should consider the following; the nature and severity of the circumstances; the actions taken by the subject; the duration of the action; the immediacy of the perceived threat or harm to the subject, members of service, and/or bystanders.

As stated above, the nature and severity of the circumstances was a thousand-person protest/riot in which several police vehicles were burned. PO [REDACTED] stated that he pushed the male [REDACTED] because his body was turned sideways so that PO [REDACTED] could not see what was in his free hand. PO [REDACTED] BWC, however, showed that the male [REDACTED] held a cell phone with a bright screen in his hand. PO [REDACTED] also pushed the man because he instructed the man to step back, because he needed the [REDACTED] to be five to 20 feet away from him. However, PO [REDACTED] approached the male [REDACTED] walking five to ten feet toward him before pushing him away. Given the totality of these circumstances, the investigation determined that PO [REDACTED] decision to push the male [REDACTED] was not based on a credible fear for his own safety. Consequently, the push was not reasonable.

It is therefore recommended that **Allegation H be Substantiated.**

Allegation J – Other Misconduct: Police [REDACTED] failed to prepare a memo book entry as required by Patrol Guide Procedure 212-08.

PO [REDACTED] testified that he did not make a memo book entry regarding this incident. PO [REDACTED] memo book (BR 09), shows that at 7:09 p.m. he made an entry regarding an '10-54' at 94th Street and Grand Central Parkway in Queens. His next entry was at 2:05 a.m., to indicate his end of tour.

[REDACTED] are required to chronologically prepare memo book entries for the assignments they receive, information pertinent to such assignments, and tasks performed. Patrol Guide Procedure 212-08 (BR 10).

Because PO [REDACTED] failed to make an entry it is recommended that he be cited for **other misconduct** in connection with **Allegation J.**

Civilian and [REDACTED] CCRB Histories

- This is the first CCRB complaint to which Mr. B [REDACTED] has been a party (BR 11).
- Sgt. Peters has been a member-of-service for sixteen years and has been a subject of 14 allegations in seven cases, none of which were substantiated.
- PO [REDACTED] has been a member-of-service for two years and has been a subject in two allegations on one case, none of which were substantiated.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation
- [REDACTED]
- [REDACTED]

Squad 6

Investigator: Mac Muir SI Mac Muir 11/19/2020
Signature Print Title & Name Date

Squad Leader: Jessica Peña IM Jessica Peña 11/19/2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date